HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 6536 of 2007

DATED: 3-04-2007

Between:

Valluripalli Leelavathi

…Petitioner

and

The State of Andhra Pradesh rep. by its
Principal Secretary to Revenue (Land Acquisition)
Department, Hyderabad and others

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 6536 of 2007

ORAL ORDER:

The petitioner's land in an extent of Ac.6-22 cents in Survey No.561/2 and Ac.0-50 cents in Survey No.560/3, in all an extent of Ac.6-72 cents, has been proposed for acquisition for providing house-sites to the people belonging to weaker sections. A notice under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 1-6-2006 and was published in the newspapers on 7-6-2006.

Initially, as the enquiry under Section 5-A of the Act was dispensed with, the petitioner assailed the notification issued under Section 4(1) of the Act by way of Writ Petition No. 14329 of 2006. The said writ petition was disposed of on 18-11-2006 quashing the declaration issued under Section 6 of the Act and directing the respondents to conduct the enquiry under Section 5-A of the Act. Thereupon the 3rd respondent issued a notice on 4-1-2007 inviting objections. The petitioner submitted her objections on 20-1-2007. By an order dated 5-3-2007 the 2nd respondent-District Collector, Krishna District conveyed the decision taken by the said authority under Section 5-A (2) of the Act, to the petitioner. The objections lodged by the petitioner were considered and rejected and the appropriate authority was directed to proceed with the further process of acquisition.

As is seen from the elaborate order passed by the 2nd respondent, the objections lodged by the petitioner to the process of acquisition including that the land is lower in level and thus not fit for construction of house sites; that there is a big drainage canal abutting the land; that on the southern side of the land, three Rice Mills were existing and those may cause pollution in the vicinity; that on the northern side of the land, there were a number of fish tanks and whenever there is a heavy rain, there is a danger of breach of fish tank bunds; that subsequent to the Kolleru operation, the prices of cultivable lands have steeply increased; and that the 3rd respondent has no power or authority to issue a notice under Section 5-A of the Act; have all been considered and dealt with in seriatim by recording reasons. With regard to the high price of the land, claimed by the petitioner, the 2nd respondent recorded that it is not a relevant factor to consider under Section 5-A of the Act and that the market value will be determined as per the provisions of the Act. With regard to the 4th respondent's competence also, the 2nd respondent recorded that under Section 3 (c) of the Act, the 4th respondent was authorized to perform the functions of the Collector under Section 5-A of the Act and is therefore competent to issue a notice under Section 5-A of the Act. In so far as the objections of the petitioner with regard to usefulness of the land for housing purposes, the 2nd respondent considered these objections and held that the proposed land is very near to the main road and is therefore, conducive for providing civil amenities; that the drainage canal on the eastern side is protected with firm and strong bunds and there is no scope for leakage of water from the drainage; and that the Rice Mills nearby have long, big chimneys and there will be no pollution in the vicinity.

As each of the petitioner's objections has been carefully and cogently considered by duly recording reasons in the order of the 2nd respondent dated 5-3-2007, this court discerns no infirmity in the order

warranting interference.

The learned counsel for the petitioner additionally urged the ground that the land is an agricultural land and has not been converted for non-agricultural use for house sites under the provisions of the Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural purpose) Act, 2006. This not a ground urged by the petitioner while lodging objections in the enquiry under Section 5-A of the Act. This is not a pure question of law as suggested by the learned counsel for the petitioner. It is a mixed question of law and fact. Whether there has been a conversion is a factual matter. There was ample opportunity for the petitioner to raise this factual aspect in the enquiry under Section 5-A of the Act, which she failed to do. This court is not inclined to permit the petitioner to employ this writ petition as a plat-form for sui generis ascertainment of thefactual aspect of the matter.

On the analysis above, there are no merits. The writ petition is accordingly dismissed, after hearing the learned Government Pleader for Land Acquisition also. There shall be no order as to costs.

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GODA RAGHURAM, J

3-04-2007
GRR